

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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October 7, 1994

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FCC MAIL ROOM

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20036

Re: PR Docket No. 94-105

Dear Mr. Caton:

Please find enclosed for filing an original plus eleven copies of the MOTION BY CALIFORNIA TO STRIKE AFFIDAVIT AND TESTIMONY OF JERRY A. HAUSMAN APPENDED TO AND DISCUSSED IN THE OPPOSITION OF CTIA in the above-referenced docket.

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed, postage pre-paid envelope.

Very truly yours,

Ellen S. LeVine
Principal Counsel

ESL:afm

Enclosures: (13)

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0413

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ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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OCT 11 1994

In the Matter of)
Petition of the People of the)
State of California and the)
Public Utilities Commission)
of the State of California)
to Retain Regulatory Authority)
over Intrastate Cellular Service)
Rates)

FCC MAIL ROOM

PR. Docket No. 94-105

**MOTION BY CALIFORNIA TO STRIKE AFFIDAVIT AND TESTIMONY OF
JERRY A. HAUSMAN APPENDED TO AND DISCUSSED IN
THE OPPOSITION OF CTIA**

The People of the State of California and the Public Utilities Commission of the State of California ("California" or "CPUC") hereby move to strike from the record the testimony and affidavit of Jerry A. Hausman attached to and discussed in the opposition of the Cellular Telecommunications Industry Association ("CTIA") to the CPUC petition in the above-referenced proceeding. In support of this motion, the CPUC states as follows:

BACKGROUND

1. On August 9, 1994, the CPUC filed with the Federal Communications Commission ("FCC") a petition to retain state regulatory oversight of the intrastate rates charged by cellular carriers operating within California. In its petition, the CPUC found, based on substantial evidence, that cellular markets within California are not yet sufficiently competitive to ensure

just and reasonable rates for business and residential consumers of cellular service.

2. On September 19, 1994, CTIA filed an opposition to the CPUC petition. Included in the opposition is an affidavit by Jerry A. Hausman. In his affidavit, Mr. Hausman analyzes and compares cellular rates in the top 30 cellular markets and for Rural Statistical Areas ("RSAs"), and draws conclusions about the pricing of cellular services and the competitiveness of cellular markets in California based on that analysis. Mr. Hausman, however, did not attach any of the data which he reviewed or relied upon in his analysis.

3. On September 26, 1994, the CPUC made a formal written request upon CTIA for all data reviewed or relied upon (i.e., "the entire data set") by Mr. Hausman for each of the regression studies that he performed using such data and from which he makes his findings and draws his conclusions in his affidavit. A copy of the CPUC's data request is attached hereto as Appendix A.

4. On September 29, 1994, the CPUC filed an Emergency Motion To Compel Production in order to protect its interest in obtaining timely receipt of the information set forth in the CPUC's data request. In its motion, the CPUC indicated that CTIA had provided to the CPUC none of the requested data -- neither the publicly available data reviewed or relied upon by Mr. Hausman nor the data deemed proprietary which could have been provided pursuant to a nondisclosure agreement.

A copy of the CPUC's Emergency Motion to Compel Production is attached hereto as Appendix B.

5. On September 29, 1994, CTIA sent a letter to the CPUC acknowledging in writing its receipt of the CPUC data request. As indicated in its letter, CTIA included data for only one of the items requested by the CPUC. CTIA indicated that it was unwilling to provide the other requested data either because certain public data was provided by a third party consultant to Mr. Hausman or because certain other data provided by the cellular carriers to Mr. Hausman was deemed proprietary. In the former case, CTIA indicated that the CPUC could seek the public data directly from the third party consultant, notwithstanding Mr. Hausman's review or reliance upon such data in his testimony. In the latter case, CTIA indicated that it would need to reach an agreement with its members that such data would be provided confidentially to the CPUC under certain minimum terms and conditions.

A copy of CTIA's letter is attached hereto as Appendix C.

6. On October 4, 1994, having received none of the data requested (with the exception of the one item discussed above), and not having heard from CTIA, counsel for the CPUC telephoned counsel for CTIA to inquire when the CPUC could expect to receive the requested data. Counsel for the CPUC emphasized to counsel for CTIA the urgency in obtaining the data to provide the CPUC adequate time in which to review and analyze the data, and to prepare a formal response by October 18, 1994 (for FCC-receipt on October 19, 1994) to Mr. Hausman's testimony.

7. On October 4, 1994, the CPUC sent CTIA a letter confirming the telephone conversation between CPUC and CTIA on that same date. As the letter indicated, CTIA refused to specify

when CTIA could provide the publicly available data reviewed or relied upon by Mr. Hausman. CTIA also changed its position and refused to produce any information deemed confidential, even under a nondisclosure agreement.

In light of CTIA's position, the limited amount of time provided for preparing the CPUC's response to oppositions, and the need to protect its rights to due process, the CPUC asked CTIA to give it a firm commitment by Friday, October 7, 1994 at 5 p.m. EST that CTIA would produce the information requested by the CPUC in its September 26, 1994 data request for receipt by the CPUC no later than Tuesday, October 11, 1994.

A copy of the CPUC letter of October 4, 1994 is attached hereto as Appendix D.

8. On Friday, October 7, 1994, the CPUC received no response, either written or verbal, from CTIA. The CPUC has thus concluded that CTIA intends to provide none of the remaining information requested by the CPUC in its September 26, 1994 data request.

9. Without this information the CPUC will be denied the opportunity to evaluate and rebut the testimony of Mr. Hausman and as a result, would be denied a fundamental right to due process unless Mr. Hausman's testimony is stricken from the record. Accordingly, the CPUC hereby moves to strike the testimony of Mr. Hausman from CTIA's opposition to the CPUC petition herein.

ARGUMENT

CTIA has provided no lawful basis, nor is there any, for withholding information which CTIA's witness reviewed or relied upon in testimony opposing the petition of the CPUC to retain regulatory authority over the intrastate rates charged by cellular carriers offering cellular service within California markets. As a matter of fairness and due process, the CPUC has a legitimate interest and legal right to review and respond to all information, whether public or proprietary, which was reviewed or relied upon by those in opposition to the CPUC petition.¹ Home Box Office, Inc. v. FCC, 567 F.2d 9, 54 (D.C. Cir.), cert. denied, 434 U.S. 829 (1977) ("Even the possibility that there is here one administrative record for the public and this court and another for the Commission and those 'in the know' is intolerable."); United States v. Nova Scotia Food Products Corp., 568 F.2d 240, 252 (2nd Cir. 1977) ("To suppress meaningful comment by failure to disclose the basic data relied upon is akin to rejecting comment altogether."); Nat'l. Black Media Coalition v. FCC, 791 F.2d 1016, 1023 (2nd Cir. 1986) ("non-disclosure ... prevent[s] petitioners and perhaps others from making relevant comment").

1. Unlike CTIA and cellular carriers that have opposed the CPUC's petition, the CPUC has requested disclosure of information that CTIA claims to be confidential and has offered to enter into a nondisclosure agreement to limit its disclosure.

CTIA seeks to deny the CPUC that lawful right. Such denial is particularly egregious in this case where the CPUC's existing authority to oversee cellular rates to ensure that they are just and reasonable to California consumers is at stake. To allow CTIA to hide behind undisclosed data in seeking to defeat the CPUC petition is patently unfair and cannot reasonably be permitted.

Accordingly, in order to preserve the CPUC's due process rights in this proceeding, the CPUC moves to strike in its entirety the affidavit and testimony of Mr. Hausman attached to and discussed in CTIA's opposition to the CPUC petition. Without an opportunity to review the data underlying Mr. Hausman's conclusions in order to discern whether that data supports or contradicts Mr. Hausman's findings and conclusions, the CPUC is effectively denied the ability and right to rebut Mr. Hausman's testimony. The entire affidavit and testimony of Mr. Hausman attached to and discussed in CTIA's opposition must therefore be stricken from this record.

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/ / / /

WHEREFORE, the CPUC moves the FCC to strike in its entirety the affidavit and testimony of Jerry A. Hausman attached to and discussed in the opposition of CTIA.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
ELLEN S. LEVINE

BY: *Ellen S. Levine by E.W.O.*
Ellen S. Levine

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2047

Attorneys for the People of the
State of California and the
Public Utilities Commission of
the State of California

October 7, 1994

A P P E N D I X A

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

RECEIVED

OCT 11 1994

September 26, 1994

FCC MAIL ROOM

Via Fax

Michael F. Altschul
Vice President, General Counsel
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, NW, Suite 200
Washington, DC 20036

Dear Mr. Altschul:

In the Affidavit of Professor Jerry A. Hausman which appears as an attachment to Opposition of the Cellular Telecommunications Industry Association, Professor Hausman includes an analysis and comparison of rates in the top 30 cellular markets and for Rural Statistical Areas (RSAs). We would like the data which underlies this analysis.

Please send the entire data set used for the "1994 Price Regression for Top 30 Cellular Markets" found in Appendix 1, "1989-1993 Price Regression for Top 30 Cellular Markets" found in Appendix 2, "1989-1993 Price Regression for RSA Cellular Markets" found in Appendix 3 and "1989-1993 Demand Regression for Top 30 Cellular Markets" found in Appendix 4 of the Affidavit of Professor Jerry A. Hausman. Specifically, this data should include:

1. 1989 through 1994 price information for the cellular carriers in the top 30 markets and RSAs. In addition to the price used in the regression analysis, include the major City in the market, the MSA number and the service providers. For each service provider, indicate the minimum bill, the monthly fee, the per minute peak and off-peak price, the free minutes categorized as unspecified, peak and off peak.
2. The source of the 1989 through 1994 price data included in the study.
3. The states which regulate cellular rates and the source of this information, i.e. the "Regulation" dummy variable in the regressions.
4. The per capita personal income, population and mean commute time from work used in the regressions and the sources for this data.
5. The number of subscribers from 1989 to 1993 and the source for this data.

6. If in developing the regression analysis for the top 30 cellular markets, a larger data set was compiled (i.e., for all MSAs or the top 60 MSAs), please provide that data set and answers to items 1 through 5 above regarding that data set.

7. Please state all assumptions in specifying this regression and all assumptions regarding the error disturbances.

Please provide the above data in printed form by Thursday, September 29, 1994 by facsimile to (415) 703-1965. If possible, also send data in an ASCII text format either through electronic mail to jol@cpuc.ca.gov or on a 3.5 inch floppy disk. We will arrange to keep subscriber count data confidential, if this is considered necessary. If you have any questions concerning this request, please contact Brian Roberts at (415) 703-2334 or me at (415) 703-2047.

We look forward to your cooperation in this matter.

Sincerely,



Ellen S. Levine
Attorney for California Public Utilities Commission

cc: Jerry A. Hausman
Massachusetts Institute of Technology
Department of Economics
Building E52-271A
Cambridge, MA 02139

A P P E N D I X B

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

OCT 11 1994

FCC MAIL ROOM

In the Matter of

Petition of the People of the
State of California and the
Public Utilities Commission
of the State of California
to Retain Regulatory Authority
over Intrastate Cellular Service

PR Docket No. 94-105

**EMERGENCY MOTION TO COMPEL PRODUCTION TO THE CALIFORNIA
PUBLIC UTILITIES COMMISSION OF INFORMATION CONTAINED IN
OPPOSITIONS TO CALIFORNIA'S PETITION TO RETAIN STATE
REGULATORY AUTHORITY OVER INTRASTATE CELLULAR SERVICE RATES**

Pursuant to Section 1.41 of the Rules of Practice and Procedure of the Federal Communications Commission (FCC), the People of the State of California and the Public Utilities Commission of the State of California (CPUC) hereby request that the FCC compel AirTouch Communications (AirTouch) and the Cellular Telecommunications Industry Association (CTIA) to give the CPUC access to data, materials, and sources which underlie studies reviewed or relied upon by Dr. Jerry Hausman in affidavits attached to their oppositions to the CPUC petition. In support of its emergency motion, the CPUC declares as follows:

1. On August 8, 1994, the CPUC filed its petition in the above-referenced docket. In its petition, the CPUC found, based on substantial evidence, that cellular markets within California were not yet currently and sufficiently competitive to ensure just and reasonable rates for business and residential consumers of cellular service.

2. On September 19, 1994, AirTouch and CTIA, among others, filed an opposition to the CPUC petition.

3. Included in the opposition of AirTouch is an affidavit by Dr. Jerry Hausman. In his affidavit, Dr. Hausman relies on pricing data from the top 30 markets in the United States to support his claim that regulation in California has cost California consumers \$250 million in increased cellular rates.

4. On September 26, 1994, counsel for the CPUC sent by facsimile a data request to counsel for AirTouch. The data request is attached hereto as Appendix A. As indicated in that request, the CPUC has asked for access to the undisclosed pricing data reviewed or relied upon by Dr. Hausman in support of his claims.

5. In its opposition, CTIA also attaches an affidavit from Dr. Hausman. In this affidavit, Dr. Hausman indicates that he relied on the number of customers per carrier in order to assert that state regulation leads to lower levels of market penetration by cellular carriers. And, in addition to the undisclosed pricing data attached to his affidavit in support of AirTouch, in his affidavit in support of CTIA he relies on undisclosed historical pricing data from 1989-1993 broken down for the top 30 MSAs and RSAs. Based on this data, he claims that regulation in California has kept rates unduly high.

6. On September 26, 1994, counsel for the CPUC sent by facsimile a data request to counsel for CTIA asking for the undisclosed data reviewed or relied upon in support of Dr. Hausman's claims. The data request is attached hereto as Appendix B.

7. On September 28, 1994, counsel for AirTouch indicated that the data reviewed or relied upon by Dr. Hausman was obtained from public sources. Such information is not confidential and there is no work product privilege.

8. To date, neither AirTouch nor CTIA has provided the CPUC access to the undisclosed data underlying Dr. Hausman's affidavits.¹

9. The CPUC has a legitimate interest in having timely access to all of the undisclosed underlying data and data sources reviewed or relied upon by Dr. Hausman in each of his affidavits in order to ascertain the specific database used, the accuracy of the data, and the validity of the interpretation of the data and the conclusions reached in his studies. Absent such timely access, the CPUC is denied a reasonable opportunity to rebut Dr. Hausman's claims.

10. Any publicly available data underlying Dr. Hausman's studies and the methodology used by Dr. Hausman in creating the studies must be made part of the record if the FCC intends to consider it in evaluating the CPUC petition. Nat'l. Black Media Coalition v. FCC, 791 F.2d 1016, 1023 (2d. Cir. 1986).

1. Subsequent to the preparation of this motion, counsel for the CPUC received an oral representation from counsel for AirTouch that AirTouch would produce the information set forth in the CPUC's September 26 data request. Counsel for the CPUC, however, has not yet seen the letter from counsel for AirTouch confirming the terms and conditions under which the requested data will be provided nor has counsel seen the data itself. Upon its review, the CPUC may conclude that AirTouch has fully complied with the CPUC's data request, and hence this motion with respect to AirTouch may be moot. The CPUC, of course, reserves the right to reinstitute this motion with respect to AirTouch if AirTouch has not fully complied with the CPUC's data request.

11. To the extent in the CTIA affidavit that Dr. Hausman reviewed or relied upon data deemed commercially sensitive by cellular carriers, such data should be made available to the CPUC under reasonable terms and conditions contained in a protective order.

12. Inasmuch as the CPUC's reply to oppositions to its petition must be filed by the CPUC on October 18 (to be received by the FCC on October 19), the CPUC needs the data requested in its September 26 letters immediately.

WHEREFORE, the CPUC respectfully requests that the FCC compel AirTouch and CTIA to produce immediately to the CPUC all information set forth in the written CPUC's data requests of September 26, which information was reviewed or relied upon by Dr. Hausman on behalf of AirTouch and CTIA, in the manner set forth in such requests.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
ELLEN S. LEVINE

By: /s/ ELLEN S. LEVINE

Ellen S. LeVine

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2047

Attorneys for the People
of the State of California
and the Public Utilities
Commission of the State of
California

September 29, 1994

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



RECEIVED

OCT 11 1994

September 26, 1994

Via Fax

FCC MAIL ROOM

Michael F. Altschul
Vice President, General Counsel
Cellular Telecommunications Industry Association
1250 Connecticut Avenue, NW, Suite 200
Washington, DC 20036

Dear Mr. Altschul:

In the Affidavit of Professor Jerry A. Hausman which appears as an attachment to Opposition of the Cellular Telecommunications Industry Association, Professor Hausman includes an analysis and comparison of rates in the top 30 cellular markets and for Rural Statistical Areas (RSAs). We would like the data which underlies this analysis.

Please send the entire data set used for the "1994 Price Regression for Top 30 Cellular Markets" found in Appendix 1, "1989-1993 Price Regression for Top 30 Cellular Markets" found in Appendix 2, "1989-1993 Price Regression for RSA Cellular Markets" found in Appendix 3 and "1989-1993 Demand Regression for Top 30 Cellular Markets" found in Appendix 4 of the Affidavit of Professor Jerry A. Hausman. Specifically, this data should include:

1. 1989 through 1994 price information for the cellular carriers in the top 30 markets and RSAs. In addition to the price used in the regression analysis, include the major City in the market, the MSA number and the service providers. For each service provider, indicate the minimum bill, the monthly fee, the per minute peak and off-peak price, the free minutes categorized as unspecified, peak and off peak.
2. The source of the 1989 through 1994 price data included in the study.
3. The states which regulate cellular rates and the source of this information, i.e. the "Regulation" dummy variable in the regressions.
4. The per capita personal income, population and mean commute time from work used in the regressions and the sources for this data.
5. The number of subscribers from 1989 to 1993 and the source for this data.

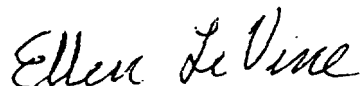
6. If in developing the regression analysis for the top 30 cellular markets, a larger data set was compiled (i.e., for all MSAs or the top 60 MSAs), please provide that data set and answers to items 1 through 5 above regarding that data set.

7. Please state all assumptions in specifying this regression and all assumptions regarding the error disturbances.

Please provide the above data in printed form by Thursday, September 29, 1994 by facsimile to (415) 703-1965. If possible, also send data in an ASCII text format either through electronic mail to jol@cpuc.ca.gov or on a 3.5 inch floppy disk. We will arrange to keep subscriber count data confidential, if this is considered necessary. If you have any questions concerning this request, please contact Brian Roberts at (415) 703-2334 or me at (415) 703-2047.

We look forward to your cooperation in this matter.

Sincerely,



Ellen S. Levine
Attorney for California Public Utilities Commission

cc: Jerry A. Hausman
Massachusetts Institute of Technology
Department of Economics
Building E52-271A
Cambridge, MA 02139

CERTIFICATE OF SERVICE

I, Ellen S. LeVine, hereby certify that on this 29th day of September, 1994 a true and correct copy of the foregoing document was mailed first class, postage prepaid to:

Michael F. Altschul
Vice President, General Counsel
Cellular Telecommunications
Industry Association
1250 Connecticut Avenue, NW, Suite 200
Washington, DC 20036

Mary B. Cranston
Pillsbury Madison & Sutro
P.O. Box 7880
San Francisco, CA 94120-7880

/s/ ELLEN S. LEVINE

Ellen S. LeVine

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



September 26, 1994

Via Fax

David A. Gross
Kathleen Q. Abernathy
Airtouch Communications
1818 N Street, N.W., 8th Floor
Washington, DC 20036

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OCT 11 1994

FCC MAIL ROOM

Dear Mr. Gross and Ms. Abernathy:

In the Affidavit of Professor Jerry A. Hausman which appears as Appendix E of the Opposition of Airtouch Communications to CPUC Petition to Rate Regulate California Cellular Service Professor Hausman includes an analysis and comparison of rates in the top 30 cellular markets. We would like the data which underlies this analysis.

Please send the entire data set used for the "1994 Price Regression for Top 30 Cellular Markets" found in Appendix I of the Affidavit of Professor Jerry A. Hausman. Specifically, this data should include:

1. 1994 price information for the cellular carriers in the top 30 markets. In addition to the price used in the regression analysis, include the major City in the market, the Metropolitan Statistical Area (MSA) number and the service providers. For each service provider, indicate the minimum bill, the monthly fee, the per minute peak and off-peak price, the free minutes categorized as unspecified, peak and off peak. (See the attached "Appendix B" from a previous Affidavit of Jerry A. Hausman in United States of America v. Western Electric Company, Inc., and American Telephone and Telegraph dated July 29, 1992.)
2. The sources for the 1994 price data included in the study.
3. The states in which the top 30 markets are located which regulate cellular rates and the source of this information, i.e. the "Regulation" dummy variable in the "1994 Price Regression for Top 30 Cellular Markets."
4. The per capita personal income, population and mean commute time from work used in the regression and the source for this data.
5. If in developing the regression analysis for the top 30 cellular markets, a larger data set was compiled (i.e. for all

MSAs or the top 60 MSAs), provide that data set, and answers to 1-4 above regarding that data.

6. State all assumptions in specifying this regression and any assumptions regarding the error disturbances.

Please provide the above data in printed form by Thursday, September 29, 1994 by facsimile to (415) 703-1965. If possible, please also send data in an ASCII text format either through electronic mail to jol@cpuc.ca.gov or on a 3.5 inch floppy disk. If you have any questions concerning this request, please contact either Brian Roberts at (415) 703-2334 or me at (415) 703-2047.

We look forward to your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Ellen S. LeVine".

Ellen S. LeVine

encl.

A P P E N D I X C

RECEIVED

OCT 11 1994

FCC MAIL ROOM

September 29, 1994



Building The
Wireless Future™

CTIA

Cellular
Telecommunications
Industry Association
1250 Connecticut
Avenue, N.W.
Suite 200
Washington, D.C. 20036
202-785-0081 Telephone
202-785-0721 Fax
202-736-3248 Direct Dial

Michael F. Altschul
Vice President,
General Counsel

Via Facsimile

Ellen S. LeVine, Esq.
State of California
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: CPUC Request for Hausman Data Set

Dear Ms. LeVine:

I am writing to acknowledge receipt of your letter dated September 26 requesting "the entire data set" used by Professor Jerry Hausman in the regression analyses set forth in Appendices 1, 2, and 3 of the Affidavit attached to CTIA's Opposition in FCC PR Docket No. 94-105. As I first received the letter this afternoon by first class mail, and not by facsimile as indicated, it is simply not possible for CTIA to provide all of the information today, as you request.

CTIA did provide Professor Hausman with some of the data included in your request. In particular, historical price information included within the scope of your first request (for 1989 through 1994 price information) was provided in the form of Paul Kagan Associates' Cellular Rates, published March 1992 (1991 MSA rates), and January 1994 (1993 MSA and RSA rates). Absent written permission from Paul Kagan Associates, CTIA is reluctant to provide you with this data. The Paul Kagan reports are available from Paul Kagan Associates, 126 Clock Tower Place, Carmel, CA 93923. Professor Hausman obtained all other cost data from sources other than CTIA.

CTIA also provided Professor Hausman with a list of the states that regulate cellular rates. See CPUC Request Number 3. This list is set forth in Table 10, pages 130-131, of the NARUC Report on the Status of Competition in

Intrastate Telecommunications, published in 1992 by the National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, DC 20044. A copy is attached.

CTIA does not have the other data you have requested. As you know, carrier and market specific price and subscriber data is highly confidential. It is so confidential that cellular carriers do not provide it to us, and we would not want it. Instead, this data was provided directly to Professor Hausman, and even then was provided under different claims of confidentiality.

As we discussed this afternoon, CTIA, as a trade association, is unable to authorize the release of the data carriers provided directly to Professor Hausman. However, CTIA is willing to work with you, Dr. Hausman, and our member carriers to reach an agreement that meets each party's legitimate needs. At a minimum, the agreement would need to be in the form a Protective Order or Confidentiality Agreement that would include your commitment (1) that the use of any and all data obtained pursuant to this request would be strictly limited to the FCC's PR Docket No. 94-105, and (2) that there would be no disclosure of any carrier and/or market specific data.

I hope we will be able to reach an agreement that will provide you with all the data you seek. As you know, Professor Hausman in other work has relied on public information for his analyses, and there should be no problem in providing such public data with a minimum of delay. Release of non-public data, however, must await the review of your request by Professor Hausman and the affected cellular carriers, and the agreement of all parties to an appropriate protective order.

Sincerely,


Michael Altschul

cc: Professor Hausman

TABLE 10 - REGULATION OF CELLULAR COMMUNICATIONS SERVICE

AGENCY **	DEGREE OF REGULATION EXERCISED (F, P, N)	AGENCY REQUIRES FOR WHOLESALE SALES:			AGENCY REQUIRES FOR RETAIL SALES:			CHANGING REG- ULATION UNDER CONSIDERATION DOCKET NO. 7	NUMBER OF CELLULAR CARRIERS
		CPCN *	TARIFF FILING	USoA *	CPCN *	TARIFF FILING	USoA *		
ALABAMA PSC	NONE 8/	NO	NO	NO	NO	NO	NO		
ALASKA PUC	FULL	YES	YES	YES	YES	YES	YES		8
ARIZONA CC	PARTIAL	YES	YES		NO	NO	NO		14
ARKANSAS PSC	PARTIAL	YES	NO	NO	YES	NO	NO		32
CALIFORNIA PUC	FULL	YES	YES	YES	YES	YES	YES		39
COLORADO PUC	NONE	NO	NO	NO	NO	NO	NO		
CONNECTICUT DPUC	PARTIAL	YES	YES	NO	NO	NO	NO		6
DELAWARE PSC	NONE	NO	NO	NO	NO	NO	NO		
DC PSC	NONE	NO	NO	NO	NO	NO	NO		2
FLORIDA PSC	NONE	NO	NO	NO	NO	NO	NO		
GEORGIA PSC	NONE	NO	NO	NO	NO	NO	NO		
HAWAII PUC	FULL	YES	YES	NO	YES	YES	NO	YES	5
IDaho PUC	NONE	NO	NO	NO	NO	NO	NO		
ILLINOIS CC	PARTIAL 4/	YES 4/	YES 3/	YES 15/	YES 4/	YES 3/	YES 15/	YES	28
INDIANA UIC	PARTIAL 4/	NO	NO		NO	NO			36
IOWA UB	NONE	NO	NO	NO	NO	NO	NO		
KANSAS SCC	NONE	NO	NO	NO	NO	NO	NO		
KENTUCKY PSC	5/ PARTIAL	YES	YES	YES	NO	NO	YES		34
LOUISIANA PSC	FULL	YES	1/ INFO ONLY		YES	1/ INFO ONLY			23
MAINE PUC	7/ NONE	NO	NO	NO	NO	NO	NO	DEREGULATED	
MARYLAND PSC	13/ NONE	NO	NO	NO	NO	NO	NO	DEREGULATED	
MASSACHUSETTS DPV	FULL	YES	YES		YES	YES			28
MICHIGAN PSC	16/ NONE	NO	NO	NO	NO	NO	NO	DEREGULATED	
MINNESOTA PUC	NONE	NO	NO	NO	NO	NO	NO		
MISSISSIPPI PSC	FULL	YES	1/ INFO ONLY		YES	YES			16
MISSOURI PSC	NONE	NO	NO	NO	NO	NO	NO	DEREG. 1986	
MONTANA PSC	NONE	NO	NO	NO	NO	NO	NO		
NEBRASKA PSC	NONE	NO	NO	NO	NO	NO	NO		3
NEVADA PSC	FULL	YES	6/ YES	YES	YES	6/ YES	YES		16
NEW HAMPSHIRE PUC	NONE	NO	NO	NO	NO	NO	NO		6
NEW JERSEY BRC	NONE	NO	NO	NO	NO	NO	NO		
NEW MEXICO SCC	PARTIAL	YES	YES		NO	NO			20
NEW YORK PSC	2/ PARTIAL	YES	YES		YES	YES		5.2660/A.5789	53
NORTH CAROLINA UC	NONE 12/	NO	NO	NO	NO	NO	NO	P-100, SUB 79	46
NORTH DAKOTA PSC	9/ PARTIAL	NO	NO	NO	NO	NO	NO		13
OHIO PUC	PARTIAL	YES	YES	YES	NO	NO	NO	YES 2/	33
OKLAHOMA CC	NONE	NO	NO	NO	NO	NO	NO		
OREGON PUC	NONE	NO	NO	NO	NO	NO	NO		9
PENNSYLVANIA PUC	NONE	NO	NO	NO	NO	NO	NO		
RHODE ISLAND PUC	NONE	NO	NO	NO	NO	NO	NO		
SOUTH CAROLINA PSC	PARTIAL	YES	YES	YES	NO	NO	NO	NO	21
SOUTH DAKOTA PSC	NONE	NO	NO	NO	NO	NO	NO	DEREGULATED	24
TENNESSEE PSC	3/ PARTIAL	YES	YES		NO	NO	NO		
TEXAS PUC	NONE	NO	NO	NO	NO	NO	NO		
UTAH PSC	11/ PARTIAL	NO	NO		NO	NO			5
VERMONT PSC	NONE	NO	NO	NO	NO	NO	NO		
VIRGINIA SCC	PARTIAL	YES	YES		NO	NO	NO		24
WASHINGTON UIC	NONE	NO	NO	NO	NO	NO	NO		13
WEST VIRGINIA PSC	FULL	YES	YES	NO	YES	YES	NO		8
WISCONSIN PSC	3/ PARTIAL	YES	YES		NO 14/	NO	NO		40
WYOMING PSC	PARTIAL	YES	YES		NO	NO	NO		8
VIRGIN ISLANDS PSC	NONE	NO	NO	NO	NO	NO	NO	YES DCT 332	3
QUEBEC TS	10/ PARTIAL								2

* CPCN-Certificate of Public Convenience and Necessity (or equivalent); USoA-Uniform System of Accounts